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Criminal proceedings under the legal scheme in Bangladesh: An expounding study

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Abstract
It is acknowledged that the legal framework of Bangladesh is largely derived from that of the United Kingdom, as Bangladesh is classified as a common law jurisdiction. Similar to other common law jurisdictions, Bangladesh's court system is characterized as an adversarial system. In Bangladesh, two primary judicial proceedings exist: civil proceedings and criminal proceedings. This study will examine the transient discourse of criminal proceedings within the legal framework of Bangladesh. Criminal proceedings are accompanied by sequential mechanisms whereby the alleged crime is subjected to linear judicial processes and trial by designated Courts. If the trial is contested, the aggrieved party may appeal to the Appellate Division of the Supreme Court of Bangladesh. The sentenced individual may submit a mercy petition to His Excellency the President of the Republic of Bangladesh for the remission of the sentence and fine. The commencement of a criminal case and the post-trial phase are intrinsically linked to the criminal procedures.

Keywords: Criminal proceedings, legal system in Bangladesh

1. Introduction
The offense is the primary concern of criminal proceedings [1, 2]. While there is no precise definition of crime or offense, it is clearly articulated that a criminal act perpetrated by an offender against the state is classified as a crime, resulting in the victimization of those who are recognized as victims [3, 4]. A criminal case is initiated by the victim, a relative or friend of the victim, or any police officer by filing a First Information Report (FIR) at the relevant police station, referred to as G.R. File a complaint petition as a C.R. at the relevant court for a General Registered Case. Registered Complaint Case. In certain instances, we also observe the initiation of the Non-GR Case. Subsequently, criminal proceedings progress through successive processes for resolution, and if the case is disputed, the verdict is determined by the state's Apex Court [5]. In Bangladesh, the adjudication or trial of criminal cases is governed by several existing laws, including the Penal Code, Code of Criminal Procedure, Special Powers Act, Arms Act, Narcotics Control Act, Nari-o-Shhishu Nirjatan Daman Ain, Evidence Act, and the Law of Limitation. The study will become unequivocally evident to us following the subsequent conversation in this manner.

2. The criminal proceedings
The criminal proceedings under the legal scheme or system in Bangladesh can be narrated as below:

2.1 Adversarial System
The legal system in Bangladesh is indeed an adversarial one [6]. The prosecutors assume the principal role in this system. The Court plays no essential part in the preparation, inquiry, or investigation of a case, nor in the collection or interference with evidence. This technique pertains to the dispute between both sides rather than an investigation.

2.2 Presumption of innocence
In criminal procedures in Bangladesh, the accused is deemed innocent unless proven guilty and a judgment of conviction is rendered.

2.3 Triable Courts
This discussion may encompass courts of varying levels, from lower to higher, pertaining to criminal prosecutions [7]. The Court of Magistrates, including Metropolitan and Judicial Magistrates, the Court of Sessions, comprising Joint Sessions Judges, Additional Sessions

Judges, and Sessions Judges, as well as various Tribunals established for adjudicating offenses under specific laws, operate within the judicial framework. The Supreme Court of Bangladesh, encompassing the High Court Division and the Appellate Division, serves as the ultimate authority in final case determinations [8].

2.4 Jurisdiction of the Courts
The jurisdiction of criminal courts is defined in constitutional law and statutory provisions.

2.5 Burden of proof
In criminal proceedings, the onus of proof rests with the prosecution [9]. Nevertheless, the defendant may present evidence via defense witnesses. The defense may assert an alibi, in which case the burden of proof is with the accused.

2.6 The Standard of Proof
The standard of proof requires that the offense be established beyond a reasonable doubt for conviction [10]. If the prosecution does not establish the allegations beyond a reasonable doubt, the benefit of the doubt will favor the accused, resulting in acquittal.

2.7 Parties to the case
The participants in the criminal case are referred to as the Victim, informant, complainant, prosecution, and the accused [11].

2.8 The legal representatives
In criminal procedures, all involved parties may represent themselves or be represented by legal counsel. The victim may engage a private prosecutor to assist the public prosecutors, who consistently defend the state. The accused possesses the inherent right to defend themselves and may either represent their own case or designate legal representatives to advocate on their behalf [11].

2.9 G.D. (General Diary) entry
This is fundamentally distinct from a First Information Report (F.I.R.). All incidents reported to the police officers will be recorded in a book known as the General Diary [12].
If there is a likelihood of a crime occurring against an individual, the victim may seek legal protection by completing a General Diary at the appropriate Police Station. G.D. is presented to the Officer-in-Charge of the relevant Thana. Subsequent to the registration of G.D. an Initial Offering The Investigating Officer is designated to examine the issue.
Following an examination to determine if any offense is indicated by the General Diary, then the General Diary. is converted into a First Information Report (F.I.R.). Furthermore, if an individual is under threat from another, the aggrieved party may file a General Diary (G.D.). Prior to addressing the concerned Thana. The prerequisites of GD include the time, location, manner of the threat, the identity of the perpetrator, the method of the threat, and the individual before whom the threat is made [13].

2.10 G.R. Case
The G.R. Case originates from a police station case, which is based on an F.I.R. (First Information Report) submitted by the Officer-in-Charge, filed by the victim, on behalf of the victim, or by the police as the informant on a cognizable offence.
Following the filing of an F.I.R., an investigating officer is appointed to conduct the investigation about the offense within 24 hours. A copy of the F.I.R. is dispatched to the relevant Magistrate Court, and upon receipt of the F.I.R. record, the General Registered Officer (G.R.O.) registers the F.I.R. in the khata register. Consequently, following the G.R.O.'s registration of the F.I.R. in the khata, the police station case is converted into a G.R. Legal matter.
Upon filing an F.I.R., the relevant police are empowered to apprehend the implicated individuals, and if any suspect is detained, they must be presented before the appropriate court within 24 hours. supplied by standard legislation and the relevant stipulations as outlined in the Constitution of Bangladesh. Upon completion of the inquiry, the investigating officer submits a police report comprising either a charge-sheet or a final report [14].

2.11 C.R. Case
C.R. (Complaint Registered) case is arisen from complaint petition filed by the victim or on behalf of victim before the concerned Court concerning cognizable and non-cognizable offence [15, 16].
Upon the submission of a complaint petition, the relevant court may take cognizance and issue a process (warrant or summons) against the accused individuals by examining the complainant. Alternatively, after accepting the complaint petition, the court may refer it to an appropriate competent authority for judicial inquiry or direct the concerned Thana to conduct an inquiry. The police station may also be instructed to treat the complaint petition as a FIR, and in accordance with the court's directive, the police station will register the complaint petition as a police station case, resulting in a C.R. The case has been escalated to G.R. instance [15, 16].

2.12 Non-GR Case
Occasionally, we observe that a non-GR case may be begun based on the information supplied by the victim and the application submitted by the police to the relevant Magistrate's Court for the inquiry of an offense.

2.13 Police Report
The investigating officer submits a police report, which includes either a charge-sheet or a final report concerning the charges after completing the investigation.
A charge sheet indicates a recommendation for prosecuting the offender, whereas a final report signifies that the investigation has not substantiated a case against the accused, necessitating their release from custody or discharge from bail, as applicable.
The charge-sheet or final report, as applicable, shall be submitted to the Magistrate authorized to take cognizance of the offence [17].

2.14 Naraji Petition
This petition is submitted upon the acceptance of the final report. The aggrieved informant may submit a naraji petition to the court [18]. This petition is regarded as a complaint that may be dismissed, or the Magistrate, upon reviewing the informant or other witnesses, may issue a process against the accused or order an inquiry by another Magistrate or relevant governmental agencies.

2.15 Summary Trial
This form of trial is conducted by the Executive Magistrate. This is distinct from a standard trial and is also classified as a summary trial. The summary trial court must streamline and abbreviate the trial process by omitting evidence recording and limiting adjournments.
A summary trial imposes a maximum incarceration restriction of two years, above which a Magistrate cannot impose a sentence. Generally, no appeal is permitted against a summary trial; but, when an appeal is allowed, the Magistrate must document the essence of the evidence, though not the complete evidence [19, 20].

2.16 Charge framing
The charge is formulated by the court that possesses jurisdiction to adjudicate the matter. Charges are determined by reviewing the pertinent case materials. This constitutes the foundation of adjudication. If a prima facie case exists against the accused, charges are filed against them. After the accusation is formulated, the accused will be inquired whether he acknowledges committing the alleged offense [21, 22].

2.17 Discharge
The defendant may be released by the relevant Court prior to the formulation of charges under section 241A of the Code of Criminal Procedure (Magistrate's court) and Section 265C of the Code of Criminal Procedure (Sessions Court) [23, 24].
If the prosecution fails to establish a prima facie case supporting the allegations against the accused, the charge will be deemed unsubstantiated, resulting in 'no case to answer' for the defense. In such instances, the Judge or Magistrate will discharge the accused prior to the framing of charges.
This is deemed an order, and as an aggrieved party, the prosecution may submit a revision application to an appropriate higher court in accordance with jurisdiction.

2.18 Hearing Stage
At this stage, evidence from both parties is presented through examination-in-chief. In a criminal case, the prosecution is often responsible for substantiating its case against the accused through both testimonial and documentary evidence. The defense may also call witnesses, allowing for reciprocal cross-examination by both parties. Re-examination and additional cross-examination may be permitted if warranted by the circumstances [25].

2.19 Examination of the accused
Upon completion of the evidentiary phase, the accused is interrogated pursuant to section 342 of the Code of Criminal Procedure [26]. At this stage of the proceedings, the accused is allowed to examine defense witnesses and present documentary evidence.

2.20 Judgment
A judgment may be rendered as either a conviction or an acquittal. If the prosecution successfully proves the claims against the accused beyond a reasonable doubt, the accused is convicted. Conviction can be categorized into various types, namely, sentence, sentence with fine, or fine alone. To obtain a comprehensive understanding of acquittal, it is essential to address the matter as follows.

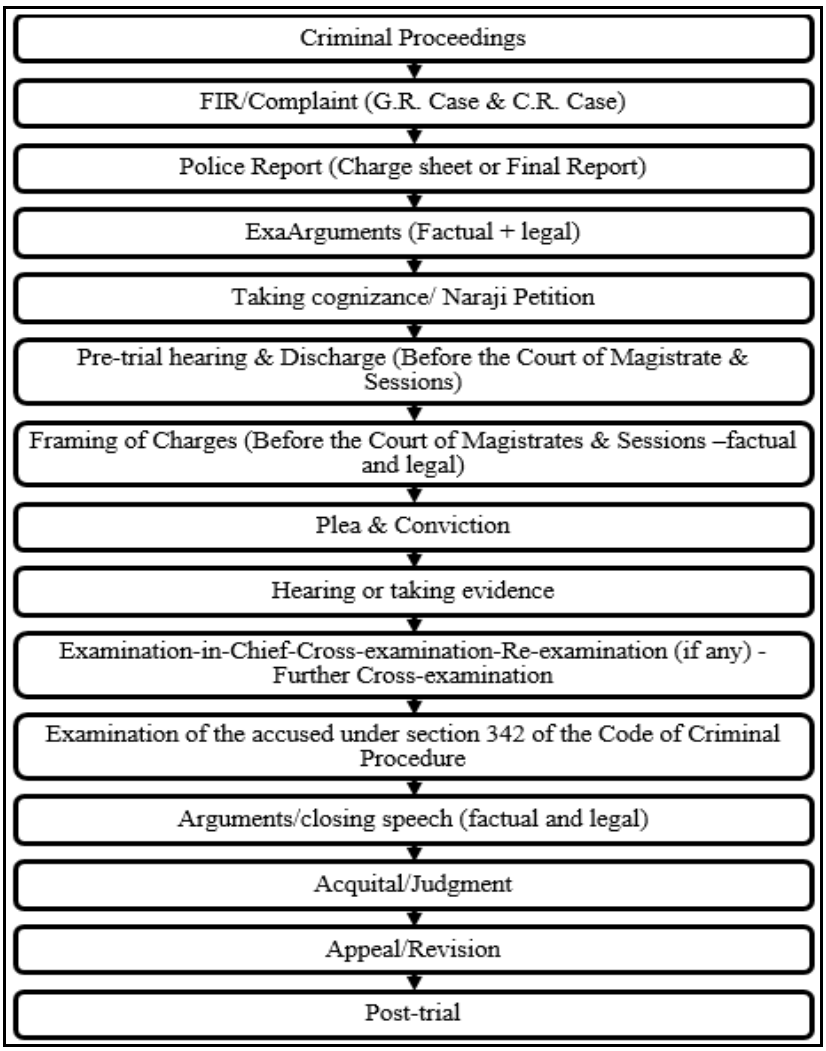
2.20.1 Acquittal
If, after evaluating evidence and interrogating the accused, the Court determines the accused is not guilty, it issues an order of acquittal [27, 28]. Conversely, it can be stated that if the prosecution fails to establish the case against the accused beyond a reasonable doubt after trial, the court may acquit the accused.
The clause about acquittal is delineated in section 245 of the Code of Criminal Procedure as applied by the Magistrate's Court, and in section 265H of the Code of Criminal Procedure for the same issue as adjudicated by the Sessions Court.
This is assessed as a judgment, and as an aggrieved party, the prosecution may submit an appeal to the superior court in accordance with jurisdiction.

2.20.2 Post-trial
If the verdict is an acquittal and the defendant is incarcerated, the acquitted individual will be freed in accordance with the ruling. If convicted, the accused will serve the sentence as per the decision unless it is suspended or remitted by the Government. Upon the complete execution of a sentence, the executing officer shall deliver the warrant to the court. If the penalty is death, the proceedings must be presented to the High Court Division, and the sentence shall not be carried out unless ratified by the High Court Division. When an individual under the age of 15 is sentenced by a criminal court, the court may order that the individual be confined in a reformatory institution, a training center, or placed on probation instead of being incarcerated in a criminal facility [28].

2.20.3 Criminal Appeal and Revision
2.20.3.1 Appeal
This is a petition submitted by a dissatisfied party to a higher court in accordance with its jurisdiction. The application is submitted against the conviction verdict or order issued by subordinate courts to the Sessions Judge or High Court Division about jurisdictional matters.
This is applicable in both civil and criminal proceedings. The Appellate Court will resolve the appeal by considering both factual and legal aspects. An appeal is a formal request by a party to an appellate court, seeking to overturn or modify a decision made by a lower court [29, 30].

2.20.3.2 Revision
This is an application submitted by an aggrieved party to a higher court concerning jurisdiction. When an appeal is not permissible, revision will be applicable. The Law Reforms Ordinance of 1978 revoked the provision for a second appeal.
The application is submitted against the conviction verdict or order issued by a subordinate court to the Sessions Judge or High Court Division. This is a judicious tonic aimed at altering the disintegration of justice. This represents a form of directive authority. This is suitable in both civil and criminal contexts. The revision will address the legal error committed by the subordinate court, which resulted in a miscarriage of justice.

The flowchart of the criminal proceedings may be shown as under



3. Conclusion

Now, it is clear to us that all types' of offences are tried by the Court or Tribunal concerned through consecutive mechanisms that are criminal proceedings. Here, the Criminal Courts or Tribunals are entitled to follow the remaining substantive laws and procedural or adjective laws. It is pertinent to mention that if the case is contested, the upset party can go to the grander Court as against the judgment of conviction or judgment of acquittal passed by the trial Court and at the end of the day; the judgment will be confirmed by the Apex Court of the state. It is one of the vital errands of the state to make well-timed laws, enactments or legislation to try any constituted offences and to create sense of right and wrong amongst the people of the society. It is also the commitment of the subjects of the country to abide by the laws as prescribed by the state and in that situation, the society, country, the world will be peaceful living place for all and my expectation is like that.

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